

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

GERALD CARTER

PLAINTIFF

VS.

NORTHSIDE INDEPENDENT
SCHOOL DISTRICT

DEFENDANT

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CIVIL ACTION NO. _____

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS, SAN ANTONIO DIVISION:

1.

Please take notice that Defendant Northside Independent School District (hereinafter
“Defendant”) hereby removes to this Court the state court action described below.

2.

This action was commenced on May 23, 2011, in the Bexar County Court at Law No. 2 of Bexar
County, Texas, as Cause No. 369254. Defendant was served with citation and received its first
notice of this cause on May 27, 2011. As of this date, the case is styled Gerald Carter vs. Northside
Independent School District. In Plaintiff's Original Petition filed and served on Defendant, Plaintiff
alleges a federal cause of action under the Americans with Disabilities Act, 42 U.S.C. §12102 *et*
seq. In his pleadings, Plaintiff Gerald Carter alleges that Defendant Northside Independent School
District discriminated against him based on his alleged disability, failed to accommodate his alleged
disability, retaliated against him because of his alleged disability and constructively terminated him

because of his alleged disability.

3.

This action is a civil action of which this Court has original jurisdiction under the provisions of 28 U.S.C. §1331 and 28 U.S.C. §1343. This Court has original jurisdiction over the subject matter, an alleged violation of federal law – the Americans with Disabilities Act. Therefore, this action is removable to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1441, being a civil action over which the Federal district courts have original jurisdiction and a case arising under the laws of the United States.

4.

This Notice of Removal is filed within thirty (30) days of receipt by Defendant of Plaintiff's Original Petition, and is therefore timely filed pursuant to the provisions of 28 U.S.C. §1446(b).

5.

A copy of all process, pleadings and orders served on Defendant in this action is attached to this Notice.

WHEREFORE, PREMISES CONSIDERED, Defendant Northside Independent School District prays that this cause be removed to this the United States District Court for the Western District of Texas, San Antonio Division, and that the said Court grant said Defendant all relief, special or general, at law or in equity, to which it shows itself justly entitled.

Respectfully Submitted,

WALSH, ANDERSON, BROWN,
GALLEGOS & GREEN, P.C.
100 NE Loop 410, Suite 900
San Antonio, Texas 78216
Tel No. 210-979-6633
Fax No. 210-979-7024

By: /s/ D. Craig Wood
D. CRAIG WOOD
Attorney In Charge
State Bar No. 21888700
cwood@sa.wabsa.com
By: /s/ Stacy T. Castillo
STACY T. CASTILLO
State Bar No. 00796322
scastrillo@sa.wabsa.com

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Notice of Removal has been sent by certified mail, return receipt requested on the 17th day of June 2011, to:

Mr. Adam Poncio
Poncio Law Offices
5410 Fredericksburg Road, Suite 109
San Antonio, TX 78229-3550

CERTIFIED MAIL #7010 2780 0003 1514 5655
RETURN RECEIPT REQUESTED

/s/ D. Craig Wood
D. CRAIG WOOD

RUN DATE: 06/14/2011 Boxer County Centralized Docket System Pg: 1 PGM: DKB4900P
 RUN TIME: 16:57:04 JCL: SPPROD

* DOCKET INFORMATION *

CAUSE NUM: 369254
 DATE FILED: 05/23/2011 COURT: 002 UNPAID BALANCE: 0.00
 TYPE OF DOCKET: DAMAGES

*** STYLE ***

GERALD CARTER
 VS NORTHSIDE INDEPENDENT SCHOOL DISTRICT

ACCESS: 0 STATUS: PENDING

* LITIGANT INFORMATION *

| SEQ | LAST / FIRST / MIDDLE NAME | LIT. TYPE/ATTORNEY | DATE |
|-------|---------------------------------------|--------------------|------------|
| 00001 | CARTER GERALD | PLAINTIFF | 05/23/2011 |
| | 00001 PONCIO, ADAM | | |
| 00002 | NORTHSIDE INDEPENDENT SCHOOL DISTRICT | DEFENDANT | 05/23/2011 |
| | 00002 WOOD, DONALD CRAIG | | |
| 00003 | FOLKS JOHN | REGISTERED AGENT | 05/25/2011 |

* SERVICES INFORMATION *

| SEQ | SERVICE TYPE / DATES | DIST | LITIGANT NAME |
|-------|---|------|---------------|
| 00001 | CITATION | 150 | |
| | ISS: 05/25/2011 REC: 05/27/2011 EXE: 05/27/2011 RET: 06/01/2011 | | |

* ATTORNEY INFORMATION *

| SEQ | DATE FILED | BAR NBR. | NAME | STATUS | DATE |
|-------|------------|----------|--------------------|----------|------------|
| 00001 | 05/23/2011 | 16109000 | PONCIO, ADAM | SELECTED | 05/25/2011 |
| 00002 | 06/10/2011 | 21888700 | WOOD, DONALD CRAIG | SELECTED | 06/13/2011 |

* PROCEEDING INFORMATION *

| SEQ | DATE FILED | VOLUME | PAGE | PAGE COUNT |
|-------|--|--------|------|------------|
| 00001 | 05/23/2011 | 0000 | 0000 | 0000 |
| | DESC: CIVIL CASE INFORMATION SHEET | | | |
| 00002 | 05/23/2011 | 0000 | 0000 | 0000 |
| | DESC: PLAINTIFF ORIGINAL PETITION | | | |
| 00003 | 06/06/2011 | 0000 | 0000 | 0000 |
| | DESC: "CITATION SCANNED" | | | |
| 00004 | 06/10/2011 | 0000 | 0000 | 0000 |
| | DESC: ANSWER TO ORIGINAL PETITION AND AFFIRMATIVE DEFENSES NORTHSIDE INDEPENDENT SCHOOL DISTRICT | | | |

* TRIAL INFORMATION *

| SEQ | DATE FILED | COURT | SETT. DATE | TIME | ATTY |
|-----|------------|-------|------------|------|------|
|-----|------------|-------|------------|------|------|

RUN DATE: 06/14/2011 Baxter County Centralized Docket System Pg: 2 PGM: DKB4900P
RUN TIME: 16:57:06 JCL: SPPRDD

* ORDER INFORMATION *

| SEQ | DATE FILED | JUDGE NAME | VOLUME | PAGE | PAGE CNT | AMOUNT | DOF |
|-----|------------|------------|--------|------|----------|--------|-----|
|-----|------------|------------|--------|------|----------|--------|-----|

* BOND INFORMATION *

| SEQ | DATE FILED | PRINCIPAL |
|-----|------------|-----------|
|-----|------------|-----------|

COPY

CAUSE NO. 369254

GERALD CARTER

Plaintiff

vs.

NORTHSIDE INDEPENDENT SCHOOL
DISTRICT

Defendant

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IN THE COUNTY COURT

AT LAW NO. 2

BEXAR COUNTY, TEXAS

2011 JUN 10 PM 1:37

FILED IN MY OFFICE
GERARD RICKHOFF
COUNTY CLERK BEXAR CO.

**DEFENDANT NORTHSIDE INDEPENDENT SCHOOL
DISTRICT'S ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Defendant NORTHSIDE INDEPENDENT SCHOOL DISTRICT (hereinafter "District" or "Northside ISD"), in the above-styled and numbered cause, and files its Original Answer and Affirmative Defenses, and shows the Court the following:

I.

GENERAL DENIAL

The District denies each and every allegation, all and singular, contained within the Plaintiff's Original Petition. The Texas Rules of Civil Procedure and, in particular, Rule 92, affords citizens and entities of this state certain protections with respect to lawsuits of this type. Accordingly, the District invokes the provisions of that rule and does generally deny the allegations now made against it by the Plaintiff. At any trial of this cause, the District will exercise its legal rights in this regard, and require Plaintiff to carry the burden of proof, which the law imposes upon him, to prove each and every material allegation contained in his pleading by a preponderance of the credible evidence.

II.
AFFIRMATIVE DEFENSES

The District asserts that Plaintiff has failed to state a claim upon which relief can be granted under the U.S. and Texas Constitutions, or under any state or federal statute, constitutional theory, or legal authority.

Notwithstanding the foregoing, the District asserts that it acted in good faith and with a reasonable belief that its actions relevant to this lawsuit were in compliance with federal and state law. Furthermore, none of the District's actions violated any clearly established statutory or constitutional rights of which a reasonable person would have known.

Notwithstanding the foregoing, the District asserts its entitlement to sovereign immunity, professional immunity and common-law official immunity from liability for claims arising out of Plaintiff's Complaint.

Notwithstanding the foregoing, the Court lacks subject matter jurisdiction over Plaintiff's claims because he failed to exhaust his administrative remedies. To the extent that any of Plaintiff's claims are barred by immunity, were not part of the underlying administrative proceedings, or were not filed within the relevant statute of limitations, the Court lacks subject matter jurisdiction.

Notwithstanding the foregoing, Defendant cannot be held liable for alleged constitutional or statutory violations under the theory of respondeat superior.

Notwithstanding the foregoing, Defendant asserts that it breached no legal duty of any kind owing to the Plaintiff. The District has adopted policies strictly prohibiting discrimination and retaliation of any kind, including harassment, retaliation, or discrimination of employees based on disability, sex, race, national origin, or ethnicity. Northside ISD has no policy, practice

or custom of permitting harassment or discrimination of any employees in the District. Defendant's actions were in compliance with its employment policies and in compliance with applicable federal and state law.

Notwithstanding the foregoing, the District asserts that Plaintiff is not entitled to any of the relief demanded in his pleadings and that Plaintiff is not entitled to damages or costs in any amount. The District further asserts that as a governmental entity, Plaintiff is not entitled to punitive or exemplary damages against it, as a matter of law.

Notwithstanding the foregoing, the District further asserts its right to mitigation of damages and to the extent the Plaintiff has failed to mitigate his damages, that his damages, if any, should be adjusted accordingly.

Notwithstanding the foregoing, the District claims its entitlement to recover attorney's fees and costs of suit pursuant to the Rules of Civil Procedure, Texas Education Code, federal law and judicial interpretation.

Notwithstanding the foregoing, the District asserts the right to raise additional defenses that become apparent throughout the factual development of the case.

III. **PRAYER**

WHEREFORE PREMISES CONSIDERED, the District prays that Plaintiff take nothing by way of his causes of action brought herein, that the District recover all costs on its behalf expended, and that it be granted all such other and further relief, special or general, at law or in equity, to which it shows itself justly entitled.

Respectfully submitted,

WALSH, ANDERSON, BROWN,
GALLEGOS & GREEN, P.C.
100 NE Loop 410, Suite 900
San Antonio, Texas 78216
Tel No. 210-979-6633
Fax No. 210-979-7024

By: /s/ D. Craig Wood
D. CRAIG WOOD
Attorney In Charge
State Bar No. 21888700
cwood@sa.wabsa.com
By: /s/ Stacy T. Castillo
STACY T. CASTILLO
State Bar No. 00796322
scastillo@sa.wabsa.com

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Defendant Northside Independent School District's Original and Affirmative Defenses was served in the manner indicated below on the 8th day of June, 2011, to:

Adam Poncio
Poncio Law Offices
5410 Fredericksburg Road, Suite 109
San Antonio, TX 78229-3550
SBN: 16109800

**CERTIFIED MAIL #7010 2780 0003 1514 5631
RETURN RECEIPT REQUESTED**

/s/ D. Craig Wood
D. CRAIG WOOD

369254

CAUSE NO. _____

GERALD CARTER

vs.

NORTHSIDE INDEPENDENT
SCHOOL DISTRICT

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IN THE COUNTY COURT

AT LAW NO. 2

BEXAR COUNTY, TEXAS

FILED IN MY OFFICE
GERALD CARTER
COUNTY CLERK
2011 MAY 23 PM 4:47

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES GERALD CARTER, hereinafter referred to as Plaintiff, complaining of
NORTHSIDE INDEPENDENT SCHOOL DISTRICT, hereinafter referred to as Defendant, and
for cause of action shows unto the Court the following:

I. PARTIES AND SERVICE

Plaintiff is a resident of Bexar County, Texas.

Defendant, NORTHSIDE INDEPENDENT SCHOOL DISTRICT, is a Texas entity
doing business in Bexar County, Texas, which may be served with process by the clerk of the
court by certified mail, return receipt requested by serving Defendant's Superintendent, John
Folks, 5900 Evers Road, San Antonio, Texas 78238.

II. JURISDICTION

This court has jurisdiction because the action arises under the Americans with
Disabilities Act, 42 U.S.C. §12102, et al.

III. VENUE

Venue of this action is proper in Bexar County, Texas in that all or a substantial part of
the events or omissions giving rise to the claims herein occurred principally and/or exclusively

in Bexar County, Texas. TEX. CIV. PRAC. & REM. CODE ANN. § 15.001.

Moreover, venue is proper in Bexar County, Texas in that the Defendant conducts business in Bexar County. See TEX. CIV. PRAC. & REM. CODE § 15.002.

IV. DISCOVERY

Plaintiff intends to conduct discovery under Level 3 of the Texas Rules of Civil Procedure.

V. MISNOMER / MISIDENTIFICATION

In the event that any parties are misnamed or are not included herein, it is Plaintiff's contention that such was a "misidentification," "misnomer" and/or such parties are/were "alter egos" of parties named herein. Alternatively, Plaintiff contends that such "corporate veils" should be pierced to hold such parties properly included in the interest of justice.

VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES

Plaintiff timely filed a charge of discrimination against Defendant with the Equal Employment Opportunity Commission (EEOC). Plaintiff files this complaint within 90 days after receiving a Dismissal and Notice of Rights from the EEOC. A copy of the notice of the right to sue is attached as Exhibit A.

Thereafter, Plaintiff received a "Notice of Right to File a Civil Action," dated March 24, 2011 and received by Plaintiff on March 28, 2010, giving Plaintiff Notice of Right to File a Civil Action to sue Defendant within 90 days of its receipt. A copy is attached hereto as Exhibit "B" and made a part hereof for all intents and purposes.

VII. FACTS

Plaintiff faithfully worked for the Defendant since October of 2007 as a teacher at Mary

Michael Elementary School.

In November 2009, and January 2010, Plaintiff was counseled on performance issues. On or about March 29, 2010, the Superintendent notified Plaintiff in writing that Plaintiff would not be given a new two (2) year contract. Once Plaintiff's current contract for the 2010 - 2011 school year was completed, Plaintiff would cease to be employed by Defendant. Plaintiff believes he was being discriminated against in violation of the Americans with Disabilities Act of 1990, and filed a Charge of Discrimination with the Equal Employment Opportunity Commission on April 26, 2011, under Charge No. 451-2010-00999.

Since the date of filing his initial Charge of Discrimination, Plaintiff has suffered retaliation. During the week of January 3, 2011, Plaintiff was met with increasing pressure and harassment by Defendant. This occurred in the form of two (2) official reprimands, three (3) observations by supervisors, and two (2) required meetings with administration, all in the first four (4) days back. Plaintiff was told in a meeting that as of January 4, 2011, Defendant would not recommend Plaintiff for renewal of his contract based on Plaintiff's performance and reprimands. The Principal at Mary Michael Elementary made Plaintiff's job increasingly difficult by focusing intently on any infraction that may occur.

Plaintiff has had to endure Defendant's supervisors monitoring his classroom and having to attend weekly meetings to discuss Plaintiff's performance, thereby making Plaintiff's job performance difficult under the intensive supervision of Defendant. Plaintiff was informed by Defendant's attorney of record that the mandatory meeting would cease if Plaintiff dropped his first Charge of Discrimination against Defendant. Plaintiff did not drop the initial Charge of Discrimination against Defendant and therefore, the mandatory meetings continued.

Plaintiff has been diagnosed by his treating physician with clinical depression and anxiety, and most recently with ADHD. The Principal and Vice Principal were both aware of Plaintiff's medical conditions and how these conditions were affecting his job performance. Defendant was fully aware that Plaintiff's clinical depression would intensify if there was an increased anxiety and loss of sleep, as Defendant had received letters from Plaintiff's treating physician, as well as personal appeals from Plaintiff.

In June 2010, Plaintiff, with the direction of his treating physician, requested certain accommodation in order to alleviate the stress he was put under by Defendant, and even went to far as to request he be moved to another facility. Defendant, in turn, denied the accommodations.

Due to the continued stress Plaintiff was being subjected to, on April 22, 2011 Plaintiff has not alternative but to constructively terminate his employment with Defendant.

VIII. AMERICANS WITH DISABILITIES ACT

42 U.S.C. §12102, et al.

Plaintiff is disabled, as defined by the Americans with Disabilities Act (ADA), 42 U.S.C. §12102(1). The Plaintiff's clinical depression and other medical conditions substantially limit some of his life activities. Prior to his constructive termination, and prior to Defendant's harassment and retaliation, Plaintiff was otherwise qualified and able to perform the essential functions of his job as a Teacher.

Plaintiff is an employee within the meaning of the ADA, 42 U.S.C. §12111(4).

Defendant is an employer within the meaning of the ADA, 42 U.S.C. §12111(5).

Defendant violated the ADA by discriminating against Plaintiff through failure to

reasonably accommodate Plaintiff's disability. Plaintiff could reasonably accommodate the Plaintiff but was unwilling to do so. Though it was known and obvious to the Defendant that the Plaintiff would require accommodations due to the fact that the Plaintiff continued under the care of a physician for his medical conditions, the Defendant did not make accommodations when the Plaintiff requested them based on his disability and/or based on the perception of his disability.

Additionally, Defendant violated the ADA by intentionally discriminating against Plaintiff because of his disability, 42 U.S.C. §12203. Defendant's discriminatory acts include retaliating against and causing the constructive termination of Plaintiff for Defendant's failure to accommodate his disability.

IX. RESPONDEAT SUPERIOR AND RATIFICATION

Whenever in this complaint it is alleged that the Defendant did any act or thing, it is meant that the Defendant's officers, agents, servants, employees or representatives did such act and/or that at that time such act was done, it was done with the full authorization or ratification of the Defendant or was done in the normal and routine course and scope of employment of Defendant's officers, agents, servants, employees, or representatives.

X. DAMAGES

As a direct and proximate result of the Defendant's conduct and/or omission, Plaintiff suffered the following injuries and damages:

- (a) Mental anguish and emotional distress suffered in the past;
- (b) Mental anguish and emotional distress which, in all reasonable probability, will be suffered in the future;

- c) Lost wages, past and future;

XI. ATTORNEY FEES

Plaintiff is entitled to an award of attorney fees, expert fees and costs under 42 U.S.C. §12205.

XII. JURY DEMAND

Plaintiff further demands a trial by jury.

XIII. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the Court and believed to exceed \$75,000; attorney's fees and expert fees, together with interest, including pre and post judgment interest, as allowed by law; costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity. Plaintiff requests a jury trial.

Respectfully submitted,

By: 

ADAM PONCIO
State Bar No. 16109800
PONCIO LAW OFFICES, P.C.
5410 Fredericksburg Rd., Suite 190
San Antonio, TX 78229
Tel. (210) 212-7979
Fax. (210) 212-5880

ATTORNEYS FOR PLAINTIFF

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Gerald L. Carter**
c/o Mr. Adam Poncio
5410 Fredericksburg Rd, Suite 109
San Antonio, TX 78229

From: **San Antonio Field Office**
5410 Fredericksburg Rd
Suite 200
San Antonio, TX 78229

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

451-2011-00534

Jose Colon-Franqui,
Supervisor

(210) 281-7608

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☒

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

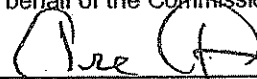
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



February 25, 2011

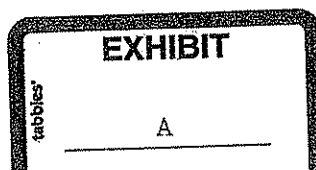
Enclosures(s)

Pedro Esquivel,
Director

(Date Mailed)

cc: **NORTHSIDE INDEPENDENT SCHOOL DISTRICT**
Assistant Supervisor for Human Resources
5617 Grissom Road
San Antonio, TX 78238

RECEIVED FEB 28 2011





Texas Workforce Commission
Civil Rights Division

3/24/2011

NOTICE OF RIGHT TO FILE A CIVIL ACTION

Gerald L. Carter
c/o Adam Poncio
Poncio Law Offices
5410 Fredericksburg Road, Suite 109
San Antonio, TX 78229-3550

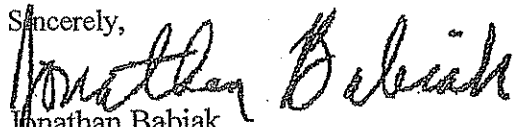
Re: *Gerald L. Carter v. Northside Independent School District*
EEOC Complaint # 451-2011-00534
CRD/Local Commission Complaint #

The above-referenced case was processed by the United States Equal Employment Opportunity Commission or a local agency. Pursuant to Sections 21.252 and 21.254 of the Texas Labor Code, this notice is to advise you of your right to bring a private civil action in state court in the above-referenced case. YOU HAVE SIXTY (60) DAYS FROM THE RECEIPT OF THIS NOTICE TO FILE THIS CIVIL ACTION.

If your case has been successfully resolved by the U. S. Equal Employment Opportunity Commission or another agency through a voluntary settlement or conciliation agreement, you may be prohibited by the terms of such an agreement from filing a private civil action in state court pursuant to the Texas Commission on Human Rights Act, as amended.

The United States Supreme Court has held in *Kremer v. Chemical Construction Corporation*, 456 U.S. 461 (1982), that a federal district court must generally dismiss a Title VII action involving the same parties and raising the same issues as those raised in a prior state court action under Chapter 21 of the Texas Labor Code. Therefore, filing a lawsuit in state court based on the issuance of this notice of right to file a civil action may prevent you from filing a lawsuit in federal court based on Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e - et seq.

Sincerely,


Jonathan Babiak
Division Director

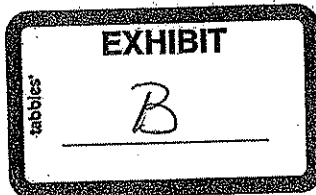
RETAIN ENVELOPE TO VERIFY DATE RECEIVED

Copy to:

Northside Independent School District
Assistant Supervisor for Human Resources
5617 Grissom Road
San Antonio, TX 78238

RECEIVED MAR 28 2011

CERT-C-NCO2(6/92)



"The State of Texas"

NO. 369254

GERALD CARTER
Plaintiff
vs.

IN THE COUNTY COURT AT

LAW NO. 2

BEXAR COUNTY, TEXAS

NORTHSIDE INDEPENDENT SCHOOL DISTRICT
Defendant

NOTICE

Citation Directed to: NORTHSIDE INDEPENDENT SCHOOL DISTRICT
BY SERVING ITS SUPERINTENDENT, JOHN FOLKS
5900 EVERS ROAD
SAN ANTONIO, TX 78238

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you." Said petition was filed on the 23RD day of May, 2011.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 25TH DAY OF May A.D., 2011.

ADAM PONCIO
Attorney/PLAINTIFF
address 5410 FREDERICKSBURG RD 10
SAN ANTONIO, TX 78229-3554



GERARD RICKHOFF
County Clerk of Bexar County, Texas
Bexar County Courthouse
100 Dolorosa Suite 104
San Antonio, Texas 78205

By: Marie E. Poole Deputy
MARIE E. POOLE

OFFICER'S RETURN

Came to hand 27 day of May, A.D. 2011, at _____ o'clock _____ M.
and executed the 27 day of May, A.D. 2011, in _____
at _____ o'clock _____ M. by delivering to mc Zamarripa
in person a true copy of this citation together with the accompanying copy of plaintiff's
petition, Served at 5900 EVERS Rd San Antonio, TX 78238

I traveled _____ miles in the execution of this citation. fees: _____ Serving citation
\$ Mileage Total \$

By _____ County, Texas

The State of Texas

NON - PEACE OFFICER VERIFICATION

VERIFICATION OF RETURN (IF NOT SERVED BY PEACE OFFICER)

SWORN TO this _____ day of _____



369254
(DKC001)

NOTARY PUBLIC, STATE OF TEXAS

SCANNED

RETURN TO COURT

Certified Mail Article # 7009 88000001 7478 4546

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

NORTHSIDE INDEPENDENT SCHOOLDIST
BY SERVING ITS SUPERINTENDENT
JOHN FOLKS
5900 EVERS ROAD
SAN ANTONIO, TX. 78238

369254

2. Article Number

(Transfer from service label)

7009 2820 0001 7478 4546

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-15404

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *McGowan*☒ Agent☐ Addressee

B. Received by (Printed Name)

McZamarripa

C. Date of Delivery

5/27/11

D. Is delivery address different from item 1?

☐ Yes☒ No

If YES, enter delivery address below:

3. Service Type

☐ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes☒ No

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees F
USPS
Permit No. G-1

• Sender: Please print your name, address, and ZIP+4 in this box. •

CIVIL CENTRAL FILING

ATTN: MARIE

CASE: 369254

CIT

05/25/2011

Handwritten: 10:01 AM - 1 PM 2:00 PM

GERRY RICKHOFF, COUNTY CLERK
BEXAR COUNTY COURTHOUSE
100 DOLOROSA, SUITE 108
SAN ANTONIO, TEXAS 78205-3083

Vertical stamp: FILED IN MY OFFICE GERRY RICKHOFF COUNTY CLERK BEXAR

"The State of Texas"

NO. 369254

GERALD CARTER

Plaintiff
vs.

IN THE COUNTY COURT AT

LAW NO. 2

NORTHSIDE INDEPENDENT SCHOOL DISTRICT

Defendant

NOTICE

Citation Directed to: NORTHSIDE INDEPENDENT SCHOOL DISTRICT
BY SERVING ITS SUPERINTENDENT, JOHN FOLKS
5900 EVERS ROAD
SAN ANTONIO, TX 78238

BEXAR COUNTY, TEXAS

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you." Said petition was filed on the 23RD day of May, 2011.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 25TH DAY OF May A.D., 2011.

GERARD RICKHOFF

County Clerk of Bexar County, Texas
Bexar County Courthouse
100 Dolorosa Suite 104
San Antonio, Texas 78205



ADAM PONCIO

Attorney/PLAINTIFF

address 5410 FREDERICKSBURG RD 10
SAN ANTONIO, TX 78229-3554

By: *Marie E. Poole* Deputy
MARIE E. POOLE

OFFICER'S RETURN

Came to hand day of A.D., at o'clock M.
and executed the day of A.D., in
at o'clock M. by delivering to
in person a true copy of this citation together with the accompanying copy of plaintiff's
petition. Served at

I traveled miles in the execution of this citation. fees: Serving citation
\$ Mileage Total \$

County, Texas

By

The State of Texas

NON - PEACE OFFICER VERIFICATION

VERIFICATION OF RETURN (IF NOT SERVED BY PEACE OFFICER)

SWORN TO this day of



369254
(DKC001)

NOTARY PUBLIC, STATE OF TEXAS

FILE COPY



County Clerk - Civil Central Filing

Receipt

Duplicate Receipt New Case

Transaction Status: Valid

| | | |
|------------------------|--------------------------------|--------------------------|
| Date: 5/24/2011 | Batch Day 05/24/2011 | Time: 12:18:56 PM |
|------------------------|--------------------------------|--------------------------|

Receipt Date: 05/24/2011

Gerard Rickhoff

County Clerk - Civil Central Filing

Bexar County

ADAM PONCIO
5410 FREDERICKSBURG RD
109
SAN ANTONIO, TX 78229

Court Number: 2

Style:

GERALD CARTER

vs

NORTHSIDE INDEPENDENT SCHOOL DISTRICT

Amount for this Receipt: \$294.00

Cause Number: 369254

Receipt Number: 00948536

Transaction Number: 28

User ID: CC18591

WorkStation: D911KMJ1

Batch Number: 26628

Department Code: CCPP

Payment Type Code: 3073

Payment Type Name: ccORP Cert Mail Jury

Court Date:

Court Time: :

| Transaction # | Office | Tender Name | Tender Code | Date of Check | Amount |
|--------------------------|--------|----------------|-------------|-----------------------|-----------------|
| 28 | CHCC | Check (Endors) | CK | 5/23/2011 12:18:21 PM | \$294.00 |
| Transaction Total | | | | | \$294.00 |

| Allocation Names And Amounts | | | |
|------------------------------|---------|----------------------|---------|
| alADRS | \$15.00 | alJSF2 | \$42.00 |
| alAPLC | \$5.00 | alBCLS (County 5%) | \$0.50 |
| ccCertified Mail | \$60.00 | ccClerk - New Filing | \$40.00 |
| alCSF | \$5.00 | ccJSF | \$40.00 |
| alJury Demand | \$22.00 | alLaw Library | \$15.00 |
| alOCR | \$15.00 | alRMF | \$5.00 |
| alBCLS (State 95%) | \$9.50 | al CH/RENOV FEE | \$15.00 |
| al Rec Preservation Fee | \$5.00 | | |

Gerry Rickhoff

COUNTY CLERK



BEXAR COUNTY

BEXAR COUNTY COURT HOUSE
SAN ANTONIO, TEXAS 78205

CASE NO. 369254

ccz

FILED
JUN 17 2011
CLERK

GERALD CARTER

DATE: _____

VS.
NORTHSIDE INDEPENDENT
SCHOOL DISTRICT

Please list name and service type for each defendant.

CITATION:

1. NAME NORTHSIDE INDEPENDENT SCHOOL DISTRICT, by Registered Agent for Service:
Superintendent, John Folks, 5900 Evers Road, San Antonio, Texas 78238.

- A. _____ Private Process
- B. _____ Sheriff
- C. ☒ Certified Mail
- D. _____ Out of County,

Mail to Attorney: _____

Address: _____

2. NAME _____

- A. _____ Private Process
- B. _____ Sheriff
- C. _____ Certified Mail
- D. _____ Out of County,

Mail to Attorney: _____

Address: _____

3. NAME _____

- A. _____ Private Process
- B. _____ Sheriff
- C. _____ Certified Mail
- D. _____ Out of County,

Mail to Attorney: _____

Address: _____

4. NAME _____

- A. _____ Private Process
- B. _____ Sheriff
- C. _____ Certified Mail
- D. _____ Out of County,

Mail to Attorney: _____

Address: _____

369254

CAUSE NUMBER (FOR CLERK USE ONLY):

COURT (FOR CLERK USE ONLY):

STYLED GERALD CARTER VS. NORTHSIDE INDEPENDENT SCHOOL DISTRICT

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment motion for modification or enforcement is filed in a family law case. The information should be the best available at the time of filing. This sheet, approved by the Texas Judicial Council, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

| | | | | | |
|--|---|---|--|---|--|
| 1. Contact information for person completing case information sheet: | | Names of parties in case: | | Person or entity completing sheet is: | |
| Name: <u>Adam Poncio</u> Email: <u>salaw@msn.com</u> Address: <u>5410 Fredericksburg Rd.</u> Telephone: <u>210-212-7979</u> <u>Suite 109</u> City/State/Zip: <u>San Antonio, Tx 78229</u> Fax: <u>210-212-5880</u> | | Plaintiff(s)/Petitioner(s): <u>Gerald Carter</u> Defendant(s)/Respondent(s): <u>Northside Independent School District</u> | | <input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____ | |
| Signature: <u>ALCZ</u> State Bar No: <u>16109800</u> | | Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____ | | (Attach additional page as necessary to list all parties) | |
| 2. Indicate case type or identify the most important issue in the case (select only 1): | | | | | |
| Civil | | | Family Law | | |
| Contract <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____ | Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____ | Real Property <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____ Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____ | Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____ | Post-judgment Actions (non-Title IV-D) <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____ | |
| Employment <input checked="" type="checkbox"/> Discrimination <input checked="" type="checkbox"/> Retaliation <input checked="" type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____ | Other Civil <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____ | | | | |
| Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax: _____ | Probate & Mental Health Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____ | | | | |
| 3. Indicate procedure or remedy, if applicable (may select more than 1): | | | | | |
| <input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action | | <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment | | <input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover | |